

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Improving Public Safety Communications in the	)	
800 MHz Band	)	WT Docket No. 02-55
	)	
Consolidating the 900 MHz Industrial Land	)	
Transportation and Business Pool Channels	)	
	)	

To: The Commission

**REPLY COMMENTS AND STATEMENT OF POSITION  
OF THE NATIONAL ASSOCIATION OF MANUFACTURERS  
AND MRFAC, INC.**

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The National Association of Manufacturers (“NAM”) and MRFAC, Inc. (“MRFAC”) hereby submit these reply comments in the above-captioned proceeding.

**INTRODUCTION**

The NAM - 18 million people who make things in America - is the nation’s largest and oldest multi-industry trade association. The NAM represents 14,000 member companies (including 10,000 small and mid-sized manufacturers) and 350 member associations serving manufacturers and employees in every industrial sector and all 50 States. Headquartered in Washington, D.C., the NAM has 10 additional offices across the country.

MRFAC is one of the Commission’s certified frequency coordinators for the private land mobile bands from 30 to 900 MHz. It started as the frequency coordinating arm for the NAM. For the past 23 years MRFAC has operated independently, providing coordination and licensing-related services for manufacturers and other industrial and business entities. MRFAC has long participated in spectrum rule makings affecting the interests of manufacturers.

As the Commission knows, NAM/MRFAC have participated actively in this proceeding. From the filing of Nextel's "White Paper," to the December 21, 2001 filing of the NAM/MRFAC re-banding plan, to participating in the joint Opening Comments of the Private Wireless Coalition ("PWC"), NAM/MRFAC have expressed the concerns and recommendations of American manufacturers in this complex matter. Throughout this process, NAM/MRFAC have been guided by four basic principles: (1) solving the Nextel-public safety interference problem; (2) innocent bystanders -- including Public Safety and Business and Industrial/Land Transportation ("B/ILT") licensees -- should not have to bear the burden of curing interference caused by others;<sup>1</sup> (3) if B/ILT systems are to be asked to make adjustments (such as re-tuning to other frequencies in the band), it should be part of a larger effort which truly "fixes" the interference to public safety and B/ILT; and (4) the plan should not unduly advantage or disadvantage any individual company or industry. These principles should likewise guide the Commission as it seeks to resolve this matter.

As discussed below, NAM/MRFAC believe that a combination of selected aspects of some of the proposals thus far advanced offers the best long term solution for resolving the interference to public safety consistent with the foregoing principles.

### **DISCUSSION**

Thus far, numerous proposals for resolving the Nextel interference matter have been advanced by one group or another. At one extreme, for example, is the original Nextel proposal which would relegate B/ILT users to secondary status on their existing 800 MHz channels, or have them migrate to another band requiring new equipment.

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<sup>1</sup> NAM/MRFAC members also have experienced interference to their 800 MHz B/ILT facilities. *See, e.g.*, NAM/MRFAC Comments at 6-8.

At the other extreme is the plan utility interests advocate. This plan relies on a more rigorous application of the Best Practices Guide, but otherwise largely accepts the status quo.

Then there is the 700 MHz plan, pursuant to which public safety users would migrate en masse to the 700 MHz band leaving Nextel and B/ILT users at 800 MHz on interleaved frequencies.

NAM/MRFAC have participated in numerous meetings and discussions with representatives of these and other groups, including public safety, in an effort to find common ground. Some of the plans have evolved as more information has been developed and the Nextel-public safety interference problem is better understood. While several of the proposals have meritorious aspects, at this time NAM/MRFAC have concluded that no single plan sets forth a comprehensive solution which is consistent with the four fundamental principles noted above.

As NAM/MRFAC set forth in their initial Comments, the best long-term solution is for public safety users to migrate to the upper 700 MHz band where they would achieve maximum separation from 800 MHz systems with a cellular architecture (*e.g.*, Nextel and others). This is not, however, a sufficient solution on its own. For example, it does nothing to remedy interference to B/ILT licensees on interleaved 800 MHz frequencies, or the potential of interference from future interleaved licensees on the cleared 800 MHz public safety channels.

In addition to public safety migrating to the upper 700 MHz, re-banding the 800 MHz band also is required. The re-banding plan that NAM/MRFAC originally submitted, as now modified and submitted by the PWC in a separate filing this date (the “800 MHz Plan”), would (except as noted below) most effectively address this aspect of the problem. It does so by

restricting cellular systems of the Nextel type to 861 MHz and above, while B/ILT systems would operate below this.<sup>2</sup>

The 800 MHz Plan also minimizes costs and disruption to B/ILT incumbents. While General Category B/ILT licensees would be required to re-tune to frequencies higher in the 800 MHz band, none would be required to migrate to an entirely different band -- an exercise the costs of which would far exceed re-tuning. To be sure, under the 700 MHz and utilities' plans, B/ILT incumbents could stay put. However, this entails a cost potentially much greater; namely, increasing interference as more Nextel-type cellularized systems are installed in proximity to analog systems. Although the utilities plan relies on Best Practices to control this problem, Best Practices has not worked well as a general solution to the Nextel-type interference problems to this point. It is doubtful that Best Practices would work appreciably better in the future without active Commission intervention as increasing cellular congestion unfolds.

Nonetheless, NAM/MRFAC are unable to "sign on" to the 800 MHz Plan for a few reasons. Chief among these are problems associated with the specifics of the proposed relocation of Nextel. If, as NAM/MRFAC suggest, the Commission adopts a solution that relies on use of the upper 700 MHz and the best aspects of the 800 MHz Plan, then Nextel would not need to give up spectrum and the relocation issue becomes moot.

Examining the 800 MHz Plan on its own, NAM/MRFAC do not contest the proposition that, if Nextel gives up spectrum in the 800 MHz band in order to cure public safety interference, it is entitled to receive alternate spectrum. However, the 800 MHz Plan to give Nextel 10 MHz at 1910-1915/1990-1995 MHz has several inherent problems. First, no licensee should receive a

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<sup>2</sup> If the Commission does not include the upper 700 MHz as part of the solution, the 800 MHz Plan also provides for a public safety allocation in the lower 800 MHz band, separated from the cellularized services.

spectrum windfall in return for ceasing interference it causes to others. Second, the specific use of the 1.9 GHz band is inappropriate.

Nextel today occupies spectrum which is generally non-contiguous. The 800 MHz Plan would give Nextel a bounty of unencumbered, contiguous spectrum. This, in and of itself, is a basis for concern as it indirectly rewards the party who is responsible for the interference. The Commission should not put itself in the position of seeming to improve the interfering party's position.

This would set several dangerous precedents: (1) it would relieve the interfering party/system from its obligation to rectify the existing interference; (2) it would reward the interfering party/system with a windfall of additional capacity far greater than what it is relinquishing, and (3) it would result in the reallocation of spectrum that is reportedly under development in accordance with the Commission's milestone schedule for 2 GHz Mobile Satellite Service ("MSS") licensees.<sup>3</sup> Moreover, use of the 1.9 GHz band would come at the expense of licensees who have caused no interference to public safety and have not had the opportunity to fully utilize their recently authorized spectrum.

The proposed spectrum trade also would represent a reduction in spectrum available for rural and underserved communities. "The widespread deployment of advanced services has become a central communications policy goal of the Commission."<sup>4</sup> Among the groups the

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<sup>3</sup> See e.g., *The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, 15 FCC Rcd 16127, 16177-16180 (2000), *reconsidered on other grounds*, FCC 01-224, released August 20, 2001 (Memorandum Opinion and Order and Further Notice of Proposed Rulemaking).

<sup>4</sup> *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996 (Third Report)*, FCC 02-33, released February 6, 2002, at para. 2 (footnote omitted).

Commission has identified as vulnerable to delayed deployment of advanced services are those living in rural areas, which satellites are well-suited to serve.<sup>5</sup> Removing spectrum which can be used for that purpose would undermine a core Commission policy.

The Nextel-public safety interference problems are partly a result of the current allocation of interleaved frequencies.<sup>6</sup> Any solution of the problem must not create similar problems elsewhere. Moreover, if the Commission relies solely on re-banding 800 MHz to address the problem, it must analyze carefully the Nextel-replacement-spectrum issue.<sup>7</sup> It should not adopt a plan that ultimately is inequitable and unjustly rewards Nextel at the expense of parties who have caused no interference. The Commission needs to fashion an equitable alternative that represents a complete solution to the public safety interference problem, does not place the burden of fixing the problem on innocent parties, and does not unduly benefit or disadvantage a particular company or industry.

Finally, none of the plans thus far address the interference problem in U.S.-Canada and U.S.-Mexico border areas. Interference in these regions is exacerbated due to the interleaving of shared spectrum. The Commission cannot resolve this proceeding without addressing the border area problem. NAM/MRFAC members and, we understand, the PWC, are continuing to examine this problem and anticipate providing additional information to the Commission

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<sup>5</sup> See *Ibid.* at paras. 3, 7, 16.

<sup>6</sup> As the Commission noted, “the interference ... can occur even though all parties involved may be operating in compliance with the Commission’s rules.” *Improving Public Safety Communications in the 800 MHz Band (Notice of Proposed Rule Making)*, WT Docket No. 02-55, FCC 02-81, released March 15, 2002, at para. 15.

<sup>7</sup> As noted previously, if the Commission also employs the upper 700 MHz to resolve the interference problems the replacement spectrum issue disappears.

concerning a complete bandplan for these areas, including spectrum re-alignment. NAM/MRFAC look forward to working with the PWC and other parties to develop such a plan.

### **CONCLUSION**

For the foregoing reasons, NAM/MRFAC urge the Commission to fashion a comprehensive resolution of the Nextel-public safety interference problem that is consistent with the points made above.<sup>8</sup>

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<sup>8</sup> In the long run, it is important that public safety upgrade its equipment so as to reduce/eliminate receiver overload and intermodulation products. NAM/MRFAC urge the Commission to make a point of this as well.

Respectfully submitted,

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